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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 DIANA M. CARINGI,

12 Plaintiff,

13 vs.

14 DEUTSCHE BANK NATIONAL TRUST
15 COMPANY, OCWEN LOAN SERVICING,
16 LLC, US BANK HOME MORTGAGE,
17 DOWNEY SAVINGS AND LOAN
18 ASSOCIATION, FCI LENDER SERVICES,
19 INC., DOES 1 to 100, inclusive,

20 Defendant.

CASE NO. 11cv615 WQH (RBB)

ORDER

21 HAYES, Judge:

22 On February 9, 2011, Plaintiff initiated this action by filing a Complaint in the San
23 Diego County Superior which was removed to this Court on March 28, 2011. On April 1,
24 2010, a Motion to Dismiss was filed. (ECF No. 4). On April 4, 2011, an Amended Motion
25 to Dismiss and a Motion to Expunge Lis Pendens was filed by Deutsche Bank National Trust
26 Company and Ocwen Loan Servicing, LLC. (ECF No. 5). Defendants contend that: (1)
27 Plaintiff's claims are not adequately plead; (2) Plaintiff's fraud claims are not pled with
28 particularity; (3) Plaintiff's claims regarding "robo-signing" do not support any legal theory;
and (4) Plaintiff's claims regarding the foreclosure sale are moot and fail for lack of an alleged
ability to tender. To date, Plaintiff has not responded to the Motion to Dismiss or the Motion
to Expunge Lis Pendens.

A district court may properly grant an unopposed motion pursuant to a local rule where

1 the local rule permits, but does not require, the granting of a motion for failure to respond. *See*
 2 *Ghazali v. Moran*, 46 F.3d 52, 54 (9th Cir. 1995). Civil Local Rule 7.1 provides: “If an
 3 opposing party fails to file the papers in the manner required by Civil Local Rule 7.1.e.2, that
 4 failure may constitute a consent to the granting of a motion or other request for ruling by the
 5 court.” S.D. Cal. Civ. Local Rule 7.1(f)(3)(c). “Although there is ... a [public] policy favoring
 6 disposition on the merits, it is the responsibility of the moving party to move towards that
 7 disposition at a reasonable pace, and to refrain from dilatory and evasive tactics.” *In re Eisen*,
 8 31 F.3d 1447, 1454 (9th Cir. 1994) (affirming grant of motion to dismiss for failure to
 9 prosecute); *see also Steel v. City of San Diego*, No. 09cv1743 MMA (WVG), 2009 WL
 10 3715257 at *1 (S.D. Cal., Nov. 5, 2009) (dismissing action pursuant to Local Rule 7.1 for
 11 plaintiff’s failure to respond to a motion to dismiss).

12 The Amended Motion to Dismiss and the Motion to Expunge Lis Pendens contains a
 13 proof of service indicating that Plaintiff was served with the Motion. (ECF No. 5 at 4). The
 14 Motion and the Court’s docket reflect that the hearing for the Motion to Dismiss and Motion
 15 for Expungement of Lis Pendens was noticed for May 2, 2011. Civil Local Rule 7.1 provides:
 16 “each party opposing a motion ... must file that opposition ... with the clerk ... not later than
 17 fourteen (14) calendar days prior to the noticed hearing.” S.D. Cal. Civ. Local Rule 7.1(e)(2).
 18 As of the date of this Order, Plaintiff has failed to file an opposition. The Court concludes that
 19 “the public’s interest in expeditious resolution of litigation,” “the court’s need to manage its
 20 docket,” and “the risk of prejudice to the defendants” weigh in favor of granting the Amended
 21 Motion to Dismiss and the Motion to Expunge Lis Pendens for failure to file an opposition.
 22 *Ghazali*, 46 F.3d at 53.

23 CONCLUSION

24 IT IS HEREBY ORDERED that the Amended Motion to Dismiss and the Motion to
 25 Expunge Lis Pendens is GRANTED. (ECF No. 5). The Complaint (ECF No. 1) is
 26 DISMISSED without prejudice as to Deutsche Bank National Trust Company and Ocwen Loan

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1 Servicing, LLC. The lis pendens is expunged.

2 DATED: July 25, 2011

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4 **WILLIAM Q. HAYES**
5 United States District Judge
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